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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/747,874	12/29/2003	Eric S. Paul	EIS-5907 (1417GP997)	2818
<div>7590 08/05/2008 FRANCIS J. KOWALIK, ESQ. Corporate Counsel, Law Department BAXTER INTERNATIONAL, INC. One Baxter Parkway, DF3-2E Deerfield, IL 60015</div>				
EXAMINER				
SOREY, ROBERT A				
ART UNIT		PAPER NUMBER		
3626				
MAIL DATE		DELIVERY MODE		
08/05/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/747,874

Applicant(s)

PAUL, ERIC S.

Examiner

ROBERT SOREY

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 2-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. In the amendment filed 05/18/2004 the following occurred: Claims 2-9 were canceled. No claims have been added or amended. Claim 1 stands pending for examination.

Claim Objections

2. Claim 1 is objected to because of the following informalities: Claim contains more than one sentence. The MPEP, in section 608.01(m), states: "Each claim begins with a capital letter and ends with a period. Periods may not be used elsewhere in the claims except for abbreviations. See *Fressola v. Manbeck*, 36 USPQ2d 1211 (D.D.C. 1995)."

Claim 1 contains 3 periods and should be modified to conform to a single sentence format. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claim 1** is rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,338,039 to Lonski et al.

5. As per claim 1, Lonski et al. teaches a system for documenting a clinical intervention involving a healthcare provider and a patient comprising:

--a memory for storing a documented clinical intervention (see: Lonski et al., column 3, line 55-67).

--a window enabling access (see: Lonski et al., column 3, lines 55-67) to a plurality of reference codes for documenting the clinical intervention (see: Lonski et al., column 4, lines 10-35; column 5, lines 10-24 and lines 58-65; column 7, lines 33-45 column 8, lines 14-32; column 13, lines 38-50; column 18, lines 28-41; column 19, line 40 through column 20, line 21; and the Appendix), each of the plurality of reference codes being stored within the system and include at least one pre-defined parameter (see: see at least Lonski et al., column 2, lines 49-56; column 5, lines 1-10; column 8, lines 14-32; column 9, lines 22-41; column 13, lines 15-29; column 20, lines 11-21; and see further the references associated with each reference code below),

As per the limitation:

--the plurality of reference codes including: problem, severity, recommendation, outcome, and status;

According to the MPEP, in section 2106.01, this amounts to nonfunctional descriptive material because the technology does not permit the function of the descriptive material to be realized. The material amounts to a mere arrangement of data that is met by any database, which Lonski et al. teaches throughout (see: Lonski et al., entire specification, for example, column 3, lines 55-67, is met by the database), and the

nonfunctional descriptive material need not be examined further. That said, the claimed nonfunctional descriptive material is found within Lonski et al. as further taught here:

--the *problem reference code comprising a list of clinical intervention problem descriptions* (see: Lonski et al., at least column 2, lines 37-48; column 4, lines 17-24; column 6, lines 5-20; and column 19, lines 49-65);

--the *severity reference code comprising a table of clinical intervention severity descriptions* (see: Lonski et al., at least column 4, lines 48-60; column 6, lines 5-20; column 9, lines 22-41; and column 16, lines 1-15).

--the *recommendation reference code comprising a table of clinical intervention recommendation descriptions* (see: Lonski et al., column 8, lines 1-31; column 19, lines 20-39; and column 20, lines 31-46);

--the *outcome reference code comprising a table of clinical intervention outcome descriptions* (see: at least Lonski et al., at least column 7, lines 10-15; column 10, lines 41-59; column 9, lines 22-41, is met by the "outcome" functionality; Fig. 14A1, ele. 195 and column 22, lines 1-2, is met by individual procedure codes used for progress notes, progress notes being the outcome at a specific point in time; column 11, lines 1-6; column 11, lines 27-49; column 13, lines 7-14; column 15, lines 19-31; column 20, lines 1-21; column 19, lines 36-39); and,

--the *status reference code comprising a table of clinical intervention status descriptions* (see: Lonski et al., see outcome reference codes since the recorded outcome of treatment can be read as patient's status at any point in time, including past

Art Unit: 3626

and current condition; column 12, lines 49-65; column 17, lines 39-54; column 18, lines 27-41);

Lonski et al. further teaches:

--wherein the healthcare provider selects among the pre-defined parameters to characterize the clinical intervention (see: Lonski et al., this limitation has already been met by the references made above, for example, in column 4, lines 47-60, "Having entered the problem, the caregiver will then indicate the problem severity by selecting from a scale of one to five on a pull down menu"; and another good example is column 5, lines 10-24).

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT SOREY whose telephone number is (571)270-3606. The examiner can normally be reached on Monday through Friday, 8:30AM to 5:00PM (EST).
7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Gilligan can be reached on (571)272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

Art Unit: 3626

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert Sorey/
Examiner, Art Unit 3626
22 July 2008

/Robert Morgan/
Primary Examiner, Art Unit 3626